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PETER BUSCHMANN

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

PETER BUSCHMANN,

Plaintiff,

v.

MALIBU TIMES COLLECTIVE, LLC,
and 13 STARS,

Defendants.

Case No.: 2:24-cv-9029

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT**

Jury Trial Demanded

Plaintiff Peter Buschmann, for his Complaint against Malibu Times Collective, LLC and 13 Stars, alleges as follows:

JURISDICTION

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C. § 101 et seq. This Court therefore has jurisdiction over the subject matter of this action under 28 U.S.C. § 1331 (federal question) and § 1338 (copyright).

PARTIES

Plaintiff Buschmann

2. Plaintiff is a freelance photographer and regularly licenses photographs to numerous top-tier outlets. Throughout his illustrious career, he has had the privilege of working with an array of globally recognized and prestigious clients, including industry leaders and iconic brands. His exceptional talent in photography

1 has been sought after by distinguished names such as Kering and Michael Kors along
2 with countless A-list celebrities. These collaborations underscore Mr. Buschmann's
3 talent and his impeccable reputation within the industry. His photographs have
4 graced magazines as well as the marketing materials and campaigns of world-
5 renowned brands, a testament to his remarkable skill and ability to consistently deliver
6 extraordinary visual content.

7 3. Buschmann and his agents conduct business as a syndicator of photos
8 and features of popular content including magazines like Defendant. The business
9 model is predicated on licensing the use of works to many different licensees, each of
10 which pays a fee to publish.

11 4. Plaintiff is a resident of Los Angeles, in this judicial district.

12 ***Defendants***

13 5. Defendant Malibu Times Collective is a limited liability company
14 organized and existing under the laws of the State of California with its principal place
15 of business in Malibu, California, in this judicial district.

16 6. Defendant 13 Stars is a corporation organized and existing under the laws
17 of the State of California with its principal place of business in Atascadero, California,
18 in this judicial district.

19 7. On information and belief, Malibu Times Collective and 13 Stars publish
20 the lifestyle magazine *Malibu Times Magazine*, sometimes referred to as *Malibu*
21 *Magazine*. On information and belief, defendants Malibu Times Collective and 13
22 Stars (together, "Defendant" or "Malibu Times") own, operate, or are otherwise
23 responsible for the content available at www.malibutimesmag.com and in print by way
24 of quarterly distributions of tens of thousands of magazines available in high-traffic
25 areas and mailed to high-income residents of Malibu and adjacent areas.

26 ***Personal Jurisdiction and Venue***

27 8. The Court has personal jurisdiction over Malibu Times Collective
28 because, being organized under California law and having its principal place of

1 business in this State and judicial district, Malibu Times Collective can be said to be
2 “at home” in this State and judicial district.

3 9. The Court has personal jurisdiction over 13 Stars because, being
4 organized under California law and having its principal place of business in this State
5 and judicial district, 13 Stars can be said to be “at home” in this State and judicial
6 district.

7 10. Venue in this judicial district is proper under 28 U.S.C. § 1400(a).

8 **BACKGROUND FACTS**

9 11. Buschmann owns and holds the copyright of a photographic image
10 depicting the Woosley Fire in Malibu, California (the “Image”). The Image was
11 registered with the U.S. Copyright Office as Reg. No. VA 2-383-979 (eff. Dec. 19,
12 2023).

13 12. Plaintiff never licensed the Image to the Malibu Times. Nevertheless,
14 Malibu Times used the Image without authorization or permission to do so.

15 13. On information and belief, Malibu Times copied the Image from an
16 online source then published the Image in print and online. In the printed edition of
17 the *Malibu Times Magazine*, the Image was prominently displayed on an entire page,
18 and part of a second page, of the glossy periodical.

19 14. The Image was used to boost readership, sell advertisements, and lend
20 credibility to content, which in turn contributed to the growth and reputation of
21 *Malibu Times Magazine*.

22 15. On information and belief, Malibu Times obtained the Image either from
23 the Flickr account of the U.S. Forest Service, which had plaintiff’s permission to use
24 the Image, or from the Flickr account of plaintiff himself. On both Flickr accounts,
25 the Image was displayed with copyright management information: the Forest Service
26 credited plaintiff, using his name, and plaintiff’s Flickr account listed plaintiff’s name
27 and a copyright notice near to the Image. At the time it copied the Image, therefore,
28 Malibu Times knew of plaintiff’s claim of copyright over the Image.

1 16. Despite knowing that the Image was subject to copyright, and that
2 plaintiff owned the copyright, Malibu Times displayed the Image in its print and
3 online publications with a credit to Getty Images.

4 17. The Image is creative, distinctive, and—as evidenced by Defendant’s
5 use and misappropriation of it—valuable. Because of the Image’s quality, visual
6 appeal, and subject matter, Plaintiff stood to gain revenue from licensing it.

7 18. But Defendant’s unauthorized use of the Image harmed the existing and
8 future market for the Image. Defendant’s publication made the Image immediately
9 available to the public who would otherwise be interested in viewing licensed versions
10 of the Image in the magazines, newspapers, and online publications that are Plaintiff’s
11 customers.

12 19. Defendant’s unauthorized use of the Image also harms Plaintiff’s
13 business model by driving down the prices for legitimately licensed images and
14 driving away Plaintiff’s actual and potential customers. Plaintiff’s customers—among
15 them, local magazines who pay large license fees for excellent visual content—are less
16 likely to purchase licenses, or pay as much for a license, when the same content will
17 be widely distributed simultaneously in tens of thousands of magazines and online.

18 20. In addition, Defendant’s unauthorized uses of the Image are commercial
19 in nature. Defendant used the Image to promote its high-grade advertising from
20 vendors specializing in luxury and the servicing of high net-worth individuals and
21 businesses, many of which reside in Malibu and nearby. Indeed, a full-page ad was
22 published alongside Plaintiff’s Image.

23 21. On information and belief, Defendant knew that because of the Image’s
24 depiction of a Malibu event, the public would be attracted to view the Image and thus
25 more likely to subscribe, visit the Malibu Times website, visit the magazine’s
26 advertisers and purchase products and services from them, or advertise their own
27 businesses.

1 31. If either Defendant is not liable as direct infringer of the Image, it is
2 secondarily liable for the infringements directly committed by individual employees,
3 contractors, or other infringers presently unknown (the “Direct Infringers”).

4 32. Defendant contributed to, induced, or assisted infringements by the
5 Direct Infringers. Those Direct Infringers infringed while acting under defendant’s
6 direction and control and/or using technology, facilities, and support services
7 provided by defendant.

8 33. Defendant had, or should have had, knowledge of the infringements of
9 the Direct Infringers. Further, Defendant had the right and ability to supervise the
10 infringing activity of the Direct Infringers because the infringements occurred on its
11 website and print publication.

12 34. Defendant obtained some financial benefit from the infringement of
13 plaintiff’s rights in the Image because Defendant has monetized its print and online
14 publications, because the Image were a draw for viewers regardless of the revenue
15 received from any specific use, and because the publications were supported by
16 advertising. Accordingly, Defendant had an incentive to permit and even encourage
17 infringement by the Direct Infringers.

18 35. As a direct and proximate result of said acts of secondary infringement,
19 plaintiff has suffered substantial damages in an amount to be proven at trial.

20 36. Plaintiff is entitled to actual damages and disgorgement of direct and
21 indirect profits realized by Defendant in an amount to be proven at trial.

22 **CLAIM THREE**

23 **(Providing False Copyright Management Information, 17 U.S.C. § 1202(a))**

24 37. All prior paragraphs are incorporated into this claim.

25 38. Given that a significant portion of Malibu Times’ business revolves
26 around photographs and other copyrightable matter—including the use and licensing
27 of photographs and other content—Malibu Times knew the importance of copyrights
28 in photographs and in the meaning and importance who should be given credit.

1 other means by which they could be used again by Defendant without Plaintiff's
2 authorization—as well as all related records and documents;

3 D. For actual damages and all profits derived from the unauthorized use of
4 the Image;

5 E. Under 17 U.S.C. § 1203, for actual damages for the unauthorized
6 alteration or removal of copyright information or, where applicable and at plaintiff's
7 election, statutory damages of not less than \$2,500 or more than \$25,000.

8 F. For an award of pre-judgment interest as allowed by law;

9 G. For attorney fees, costs and expenses, and all other amounts authorized
10 under law.

11 H. For such other and further relief as the Court deems just and proper.

12 **JURY TRIAL DEMAND**

13 Plaintiff demands a trial by jury of all issues permitted by law.
14

15 Dated: October 19, 2024

Respectfully submitted,

16 **PERKOWSKI LEGAL, PC**

17
18 By: /s/ Peter Perkowski

19 Peter E. Perkowski

20 Attorneys for Plaintiff
21 PETER BUSCHMANN
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